

Message Text

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ACTION L-03

INFO OCT-01 EA-10 ISO-00 OES-07 SSO-00 DLOS-09 ACDA-12
AGRE-00 AID-05 CEA-01 CEQ-01 CG-00 CIAE-00
COME-00 DODE-00 DOTE-00 EB-08 EPA-01 SOE-02
DOE-11 FMC-01 TRSE-00 H-01 INR-07 INT-05 IO-13
JUSE-00 NSAE-00 NSF-01 OMB-01 PA-01 PM-05 PRS-01
SP-02 SS-15 NSCE-00 USIE-00 INRE-00 /124 W
-----037399 180252Z /14

O 180225Z JAN 78
FM AMEMBASSY TOKYO
TO SECSTATE WASHDC NIACT IMMEDIATE 4391

C O N F I D E N T I A L TOKYO 0761

ATTENTION: L/OES HOINKES; L/T ROVINE

E.O. 11652: GDS
TAGS: EFIS, JAR, PLOS
SUBJECT: INPFC RENEGOTIATIONS

1. IN EARLY SESSIONS OF RENEGOTIATION OF INTERNATIONAL CONVENTION FOR THE HIGH SEAS FISHERIES OF THE NORTH PACIFIC OCEAN A LEGAL QUESTION HAS ARISEN ON WHICH DEPT. ADVICE IS REQUESTED. QUESTION CONCERNS WHETHER THE THREE CONTRACTING GOVERNMENTS COULD AGREE TO EXTEND THE DATE FOR TERMINATING THE CONVENTION, WITHOUT THE USG WITHDRAWING THE NOTICE OF INTENT TO WITHDRAW.

2. AS DEPT. WILL RECALL, USG DEPOSITED NOTICE OF INTENT TO WITHDRAW ON FEB. 10, 1977 AND PURSUANT TO ITS TERMS (ARTICLE XI (2)) THE CONVENTION WILL EXPIRE ON FEB. 10, 1978, UNLESS FURTHER ACTION IS TAKEN. USG DELEGATION HAS PRESUMED THAT IF SUBSTANTIVE FISHERY ISSUES WERE SUCCESSFULLY RESOLVED PRIOR TO FEB. 10, 1978, USG WOULD WITHDRAW NOTICE OF INTENT TO WITHDRAW THEREBY CONTINUING INPFC FRAMEWORK, AND NOT DISRUPTING US IMPLEMENTING LEGISLATION, WHILE TERMS OF RENEGOTIATED AGREEMENT WERE SUBMITTED TO INTERNAL
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PROCESS OF THE THREE GOVERNMENTS.

3. AS A VARIATION ON THIS THEME, IT IT POSSIBLE FOR THE THREE GOVERNMENTS TO AGREE TO EXTEND THE FEBRUARY 10, 1978 TERMINATION DATE FOR APPROXIMATELY THREE MONTHS? THIS WOULD PROVIDE MORE TIME FOR SUBSTANTIVE ISSUES TO BE RESOLVED, WITHOUT REDUCING USG LEVERAGE TO TERMINATE

THE CONVENTION BEFORE 1978 HIGH SEAS SALMON FISHING SEASON BEINGS LATER IN THE YEAR. PRESUMABLY, THE ARGUMENT THAT THIS CAN BE DONE RELATES TO MUTUALITY OF CONSENT BETWEEN THE THREE CONTRACTING PARTIES: AND THE ARGUMENT AGAINST THIS POSSIBILITY RELATES TO A LITERAL INTERPRETATION OF ARTICLE XI AND THAT THE NOTICE OF INTENT TO WITHDRAW CAN ONLY BE WITHDRAWN AND THEN REFILED, THEREFORE CONTINUING THE CONVENTION FOR ONE MORE YEAR.

4. DELEGATION WOULD APPRECIATE DEPT. RESPONSE TO THIS POINT ASAP AND, IF THIS ROUTE IS POSSIBLE, ANY AGREEMENT WOULD BE CONSTITUTED. SOME POSSIBILITIES WHICH COME TO MIND ARE A JOINTLY SIGNED MEMORANDUM OF UNDERSTANDING WHICH INTERPRETS USG NOTICE OF INTENT TO WITHDRAW; A TRIPARTITE EXCHANGE OF NOTES; AN EXECUTIVE AGREEMENT IN MEMORANDUM FORM; ETC.

5. DELEGATION DOES NOT CONTEMPLATE ACTUALLY CONCLUDING SUCH AN AGREEMENT HERE IN TOKYO AT THIS TIME. HOWEVER, IF THIS MODE IS POSSIBLE (BOTH GOC AND GOJ BELIEVE IT IS) IT PROVIDES FLEXIBILITY AND CONSTITUTES AN IMPORTANT TACTIC THAT USG CAN PLAY IF SUBSTANTIVE ISSUES BEGIN TO WORK OUT. INDEED, IT WOULD BE AN INTEGRAL PART OF USG STRATEGY THROUGHOUT THIS SESSION. THEREFORE, DEPT. IS REQUESTED TO RESPOND BY NIACT IMMEDIATE SO THAT ANSWER TO THE QUESTION CAN BE INCORPORATED AS PART OF CONFIDENTIAL

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USG STRATEGY DURING THIS SESSION.
SHERMAN

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NNN

Message Attributes

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